ANNO QUINQUAGESIMO TERTIO

GEORGII III. REGIS.

Cap. 201.

An Act for embanking, incloſing and draining Lands in the Pariſh of *Wainfleet Saint Mary*, in the County of *Lincoln*. [7th *July* 1813.]

WHEREAS there are within the Pariſh of *Wainfleet Saint Mary*, the in County of *Lincoln*, certain Open and Unembanked Salt Marſhes, containing by Eſtimation Five hundred Acres: And whereas the ſaid Marſhes are frequently overflowed with the Tides, whereby the Paſturage thereof is greatly injured, and the Cattle feeding thereon are liable to be drowned, and it will be of great Advantage to all the Proprietors and Parties intereſted therein if the ſame Marſhes were embanked and incloſed, and Proviſion made for the future Support of the Banks thereof: And whereas there are within the ſaid Pariſh of *Wainfleet Saint Mary* certain Commonable Lands and Waſte Grounds, containing together about Sixty Acres, and divers ancient Incloſed Lands, containing together Five thouſand eight hundred Acres, which might be much improved by Drainage: And whereas the Mayor and Commonalty and Citizens of the City of *London*, Maſters, Guardians, and Governors of the Houſe and Hoſpital called *Bethlem*, ſituate without and near to *Biſhopsgate* of the ſaid City, claim to be Lords (amongſt other adjacent Manors) of the Manor of *Wainfleet Saint Mary*, ſituate in the County of *Lincoln*: And whereas the King's Majeſty, in Right of His Duchy of *Lancaſter*, alſo claims to be Lord of the Manor of *Wainfleet* in the ſaid County of *Lincoln*, extending into the Pariſh of *Wainfleet Saint Mary* aforeſaid: And whereas the ſaid Mayor and Com-

monalty and Citizens are the Impropriators of *Wainfleet Saint Mary*, and are entitled to all Tithes arifing and payable within the faid Pariſh, and the faid Mayor and Commonalty and Citizens, *William Powlett Powlett* Eſquire, the Honourable *Peter Robert Drummond Burrell*, and others, are Owners and Proprietors of or intereſted in the faid Open and Unembanked Salt Marſhes, Commonable Lands, Waſte Grounds and ancient Incloſures: And whereas an Act was paſſed in the Forty-firſt Year of the Reign of His preſent Majeſty, intituled *An Act for conſolidating in One Act certain Proviſions uſually inſerted in Acts of Incloſure, and for facilitating the Mode of proving the ſeveral Facts uſually required on the paſſing of ſuch Acts*: And whereas the ſaid Commonable Lands and Waſte Grounds are in their preſent State incapable of any conſiderable Improvement, and it would be of Advantage to all Perſons intereſted if the ſame were divided and incloſed, and ſpecific Shares thereof allotted to the ſeveral Perſons and Parties reſpectively intereſted therein, and it would be an additional Benefit to the Owners and Proprietors of the Salt Marſhes and other Lands and Grounds within the ſaid Pariſh, if proper Powers were given for the better and more effectually embanking, draining, and improving the ſame; but the ſeveral Purpoſes aforeſaid cannot be effected without the Authority of Parliament: May it therefore pleaſe Your Majeſty that it may be enacted; and be it enacted by the King's moſt Excellent Majeſty, by and with the Advice and Conſent of the Lords Spiritual and Temporal, and Commons, in this preſent Parliament aſſembled, and by the Authority of the ſame, That *Anthony Bower* of the *Cloſe of Lincoln*, in the County of *Lincoln*, Gentleman, and *John Burcham* of *Coningsby*, in the ſaid County, Gentleman, and their Succeſſors, to be elected in Manner herein-after mentioned, ſhall be, and they are hereby appointed Commiſſioners for embanking, allotting, incloſing, and draining all the ſaid Marſhes, Commonable and other Lands and Grounds, and for carrying this Act into Execution, ſubject to the Rules, Regulations, and Directions herein-after contained, and ſubject to ſuch of the Powers, Regulations, Reſtrictions, and Proviſions contained in the ſaid recited Act as are not controlled by, or repugnant to, any of the Clauſes, Proviſions, or Regulations contained in this Act; and that the Notices required to be given of ſetting out public and private Roads, and of reading and executing the Award of the ſaid Commiſſioners, and all other Notices by the ſaid recited Act, or this Act, required to be given in ſome public Newſpaper, ſhall be given and publiſhed in the *Lincoln, Rutland, and Stamford Mercury*; or if that Newſpaper ſhall not then be publiſhed, in ſome other Newſpaper publiſhed or generally circulated in the ſaid County of *Lincoln*.

41 G. 3. c. 109.

Commiſſioners appointed.

Notice to be given.

Umpire.

II. And be it further enacted, That *Joſhua Crowther* of *Tickhill*, in the County of *York*, Gentleman, and his Succeſſor, to be appointed as herein-after mentioned, ſhall be and he is hereby appointed to act as an Umpire, touching any Difference of Opinion which ſhall ariſe between the ſaid Commiſſioners in the Execution of this or the ſaid recited Act, and that all ſuch Differences of Opinion ſhall be ſtated in Writing, and referred by the ſaid Commiſſioners to the ſaid *Joſhua Crowther*, or his Succeſſor, within Twenty-one Days next after any ſuch Difference ſhall have ariſen, who ſhall determine the ſame and deliver to the ſaid Commiſſioners, or one of them, ſuch his Determination in Writing, the Name of the ſaid Umpire being thereto ſigned, within Two Calendar Months from the Time any ſuch Difference ſhall be referred to him, and the Judgment and De-

termination of the ſaid *Joſhua Crowther*, or his Succeſſors therein, in all Caſes ſo referred to him, ſhall be deemed and taken to be the Judgment and Determination of the ſaid Commiſſioners, and they the ſaid Commiſſioners ſhall and they are hereby required to conform thereto.

Appointment of future Commiſſioners and Umpire.

III. And be it further enacted, That if the ſaid *Anthony Bower*, or any other Commiſſioner to be appointed in his Stead, as herein-after mentioned ſhall, before the Execution of all the Powers and Authorities hereby veſted in him, die, refuſe, or become incapable to act in the Premiſes, then and in every ſuch Caſe it ſhall be lawful for the ſaid Maſters, Guardians, and Governors of the ſaid Houſe and Hoſpital called *Bethlem*, by Writing, their Common Seal being thereto affixed, within Twenty-one Days next after ſuch Refuſal, Death, or Incapacity to act, ſhall be made known to them, by Notice in Writing from the ſurviving or remaining Commiſſioner, (which Notice ſuch Commiſſioner is hereby required to give) to appoint one other Commiſſioner (not intereſted in the Premiſes) in the Stead of the ſaid *Anthony Bower*, or any other Commiſſioner to be appointed in his Stead, who may die, refuſe or become incapable to act as aforeſaid; and if the ſaid *John Burcham* or any other Commiſſioner to be appointed in his Stead as herein-after mentioned, ſhall die, refuſe, or become incapable to act in the Premiſes, then and in every ſuch Caſe it ſhall be lawful for the Honourable *Peter Robert Drummond Burrell*, or his Heirs, by Writing under his or their Hands, within Twenty-one Days next after ſuch laſt-mentioned Death, Reſignation, or Incapacity to act ſhall be made known to him or them in Manner aforeſaid, by the ſurviving or remaining Commiſſioner, to appoint one other Commiſſioner not intereſted in the Premiſes in the Stead of the ſaid *John Burcham* or ſuch other Commiſſioner to be appointed in his Stead ſo dying, refuſing, or becoming incapable to act as aforeſaid; and in caſe the ſaid Maſters, Guardians, and Governors, or the ſaid *Peter Robert Drummond Burrell*, as the Caſe may happen, ſhall at any Time make Default in appointing any ſuch future Commiſſioner as herein-before mentioned, within Twenty-one Days next after any ſuch Death, Refuſal, or Incapacity to act ſhall be made known as aforeſaid, then the ſurviving or remaining Commiſſioner ſhall, and he is hereby required from Time to Time, by Writing under his Hand within Ten Days next after the Expiration of the ſaid Twenty-one Days allowed to the reſpective Parties for naming ſuch future Commiſſioner as aforeſaid, to appoint one other Commiſſioner not intereſted in the Premiſes, in the room of any ſuch Commiſſioner ſo dying, refuſing or becoming incapable to act as aforeſaid; and if the ſaid *Joſhua Crowther*, or any Umpire to be appointed in his Stead as herein-after mentioned, ſhall die, refuſe or become incapable to act in the Premiſes, then, and in every ſuch Caſe, one other Perſon as Umpire not intereſted in the Premiſes, ſhall be appointed in the Stead of the ſaid *Joſhua Crowther*, or ſuch other Umpire ſo dying, refuſing, or becoming incapable of acting as aforeſaid, by *William Powlett Powlett* Eſquire, or his Heirs, within Twenty-one Days next after ſuch laſt-mentioned Death, Refuſal, or Incapacity to act as aforeſaid ſhall be known to him or them, and every Commiſſioner or Umpire ſo to be appointed ſhall have the like Powers and Authorities as if he had been named a Commiſſioner or Umpire in this Act.

IV. Provided

Umpire to take an Oath.

IV. Provided always, and be it further enacted, That no Perſon ſhall be capable of acting as an Umpire in the Execution of this or the ſaid recited Act, until he ſhall have taken and ſubſcribed the Oath or Affirmation following; that is to ſay,

'I do ſwear [*or*, being One of the People called *Quakers*, 'I do ſolemnly affirm], That I will faithfully, impartially, and honeſtly, 'according to the beſt of my Skill and Ability, execute and perform the 'ſeveral Truſts, Powers, and Authorities, veſted and repoſed in me as 'an Umpire, by virtue of an Act [*here ſet forth the Title of this Act*], 'according to Equity and good Conſcience, and without Favour or Affec-'tion, Prejudice or Partiality, to any Perſon or Perſons whomſoever.

'So help me GOD.'

Which Oath or Affirmation either of the ſaid Commiſſioners is hereby empowered and required to adminiſter; and the ſaid Oath or Affirmation ſo to be taken and ſubſcribed by ſuch Umpire, and alſo the Appointment of every new Umpire, ſhall be annexed to and inrolled with the Award of the ſaid Commiſſioners, and a Copy of the Enrolment thereof ſhall be admitted as legal Evidence.

Appointment of Clerk.

V. And be it further enacted, That the ſaid Commiſſioners ſhall have Power, and they are hereby authorized to appoint ſome fit and proper Perſon to be their Clerk for aſſiſting them in carrying this Act into Execution; and in caſe of his Death, Neglect, Refuſal, or Diſability to act, the ſaid Commiſſioners may, from Time to Time, as often as there ſhall be Occaſion, by Writing under their Hands, nominate and appoint ſome other Perſon or Perſons to be their Clerk or Clerks, for the Purpoſes of this Act, in the Place or Stead of the Clerk or Clerks who ſhall ſo die, neglect, refuſe, or become diſabled to act as aforeſaid.

Allowance to Commiſſioners and Clerk.

VI. And be it further enacted, That out of the Monies which ſhall be raiſed for defraying the Expences of obtaining and executing this Act, there ſhall be paid to the ſaid Commiſſioners and their Umpire, ſo acting under the Authority of this Act, and alſo to their Clerk, and to any Commiſſioner or Clerk who may be appointed by virtue of this Act, the Sum of Three Pounds Three Shillings each, and no more, for each and every Day he ſhall attend touching the Execution of this Act, or travel for the Purpoſe of acting, or be returning Home from acting in the Execution of this Act; and that no Commiſſioner ſhall require or be entitled to receive any Fee, Reward, or Gratuity whatſoever, except the ſaid Sum of Three Pounds Three Shillings *per* Day; and that at all Meetings to be held in purſuance of this Act, the ſaid Commiſſioners, their Umpire, and Clerk, ſhall pay their own Expences; and that the ſaid Proprietors, their Attornies, and Agents, ſhall pay their own Expences, when they or any of them ſhall attend the ſaid Commiſſioners, at any Meeting to be held in purſuance of this Act.

Surveys of old Incloſed Lands not to be made, unleſs ſpecially directed by the Commiſſioners.

VII. And be it further enacted, That nothing in the ſaid recited Act or this Act contained, ſhall extend to require the ſaid Commiſſioners, or any Surveyor to be appointed by the ſaid Commiſſioners, to make or cauſe to be made any Survey, Admeaſurement, or Plan of any of the ancient incloſed Lands or Grounds within the ſaid Pariſh, unleſs the

ſaid

said Commissioners shall deem such Survey, Admeasurement, or Plan necessary or expedient for the Purposes of the said recited Act, or of this Act.

Surveys of old Inclosures to be made at the Expence of the Parties who fail to produce satisfactory Plans to the Commissioners.

VIII. Provided always, and be it further enacted, That in all Cases where any Map or Survey shall be produced to the said Commissioners, which shall appear to be incorrect, or shall not be satisfactory to the said Commissioners, or in case any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, interested in the said Marshes, Lands, or Grounds, shall neglect or refuse to produce to the said Commissioners, within Twenty-eight Days next after Notice to him, her, or them, for that Purpose given, sufficient and satisfactory Maps, Surveys, or Admeasurements, of his, her, or their respective ancient inclosed Lands; then, and in either of such Cases, it shall be lawful for the said Commissioners, and they are hereby required to make and take, or cause to be made and taken by their said Surveyor, Maps, Surveys, or Admeasurements, of all such ancient inclosed Lands, whereof no satisfactory Maps, Surveys, or Admeasurements shall be produced to them as aforesaid, and the Costs and Expences of such Surveys, Maps, or Admeasurements, shall be borne and defrayed by the respective Owners of such ancient inclosed Lands, and be paid by them within Twenty-eight Days next after Demand thereof made; and in Default of such Payment within the Time aforesaid, the said Commissioners shall, and they are hereby required to rate, charge, and assess the Owners of such ancient inclosed Lands with the Amount thereof, and the same shall be thereby effectually charged on such ancient inclosed Lands, and shall be recoverable in such and the like Manner as the Rate hereby directed or authorized to be made, in the Event herein-after for that Purpose mentioned, is directed to be recovered.

Notice of Meetings.

IX. And be it further enacted, That the said Commissioners shall, and they are hereby required to cause Notice in Writing to be affixed on the principal Door of the Parish Church of *Wainfleet Saint Mary* aforesaid, upon some *Sunday*, of the Time and Place of their First and every subsequent Meeting for the Exercise of the Powers and Execution of the Trusts hereby, or by the said recited Act vested in them, Ten Days at least before the Time of holding every such Meeting, and shall also give the like Notice of such Meetings by Advertisement in the Newspaper called *The Lincoln, Rutland, and Stamford Mercury* (Meetings by Adjournment only excepted): Provided always, that if only One Commissioner shall attend at the Time and Place appointed for any such Meeting, it shall be lawful for such Commissioner to adjourn such Meeting to a future Day, not exceeding Fourteen Days from the Day on which such Meeting was appointed to have been held, giving Notice thereof to the absent Commissioner, and all the Meetings of the said Commissioners shall be holden within the aforesaid Parish of *Wainfleet Saint Mary*, or within Eight Miles of the Boundary of the said Parish: Provided also, and in case it shall happen that neither of the said Commissioners shall be present at the Time and Place appointed for any Meeting as aforesaid, it shall be lawful for the Clerk to the said Commissioners then present to adjourn such Meeting to a future Day, not exceeding Fourteen Days from the Day on which such Meeting was appointed to have been held, giving Notice thereof in Writing to the said Commissioners.

One Commissioner may adjourn.

Commissioners to determine Differences.

X. And be it further enacted, That if any Dispute or Difference shall arise between any of the Proprietors of or Persons interested in, or claiming

claiming to be interested in, any of the Marshes, Lands, or Grounds directed to be embanked, allotted, inclosed, or drained by this Act, it shall be lawful for the said Commissioners or Umpire to hear, adjudge, and determine such Dispute or Difference: Provided always, that nothing in this Act contained shall authorize the said Commissioners or Umpire to determine the Title to any Messuages, Lands, or Hereditaments whatsoever.

Commissioners not to determine Titles.

Power to award Costs.

XI. And be it further enacted, That in case the said Commissioners shall, upon the Hearing or Determination of any Claim or Claims, or Objection or Objections, to be delivered to them in pursuance of this Act, or the said recited Act, see Cause to award any Costs, it shall be lawful for the said Commissioners, and they are hereby empowered, on Application made to them for that Purpose, to settle and award such Costs and Charges as they shall think reasonable to be paid to the Party in whose Favour any Determination of the said Commissioners shall be made, by the Person or Persons whose Claim or Claims, or Objection or Objections shall be thereby disallowed or over-ruled; and in case the Person or Persons who shall be liable to pay such Costs and Charges, shall neglect or refuse to pay the same on Demand, then and in such Case it shall be lawful for the said Commissioners, and they are hereby authorized and required, by Warrant under their Hands and Seals, directed to any Person whomsoever, to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so neglecting or refusing to pay the same, rendering the Overplus (if any) on Demand, to the Person or Persons whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale.

Power to try disputed Claims at Law.

XII. Provided always, and be it further enacted, That in case any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, interested or claiming to be interested in the said Marshes, Lands, and Grounds, shall be dissatisfied with any Determination of the said Commissioners, or Umpire touching or concerning any Claim or Claims of Rights of Common, or other Rights or Interests in, over, or upon the said Marshes, Lands, and Grounds, or any Part thereof, and shall by Writing under his or their Hand or Hands, or the Hand or Hands of his, her, or their Agent or Attorney, or under their Common Seal, respectively signify the same to the said Commissioners within Two Calendar Months next after any such Determination has been made and signified by Writing, under the Hands of the said Commissioners or Umpire to the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, against whom the same shall have been so made, or to his, her, or their Agent or Attorney, it shall be lawful for the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, so dissatisfied with such Determination, to have the Subject of such Claim or Objection, in respect of which such Determination shall be made, tried at Law, by an Action to be brought by him, her, or them, against any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, in whose Favour any Determination may be so made, or against the said Commissioners, upon a feigned Issue, to be settled by the proper Officer of the Court where such Action shall be brought, in case the Parties differ about the same, such Action to be brought within Three Calendar Months next after any such Determination shall be made, and Notice thereof given as

before directed; and the Defendant and Defendants in such Action shall, and is, and are hereby required to name an Attorney or Attornies, who shall appear thereto, or file Common Bail, and accept One or more Issue or Issues, by which the Matter of such Determination of the said Commissioners or Umpire may be tried, and the Plaintiff or Plaintiffs shall thereupon proceed in such Action, so as to have the same tried and determined at the First or Second Assizes, to be holden for the said County of *Lincoln*, next after the Commencement of such Action; and the Verdict of the Jury on such Trial shall be binding, final, and conclusive upon all the Parties interested therein, unless the Court wherein such Action shall be brought, shall set aside such Verdict, and order a new Trial to be had thereupon, which it shall be lawful for the Court to do, as is usual in other Cases, and also upon sufficient Cause shewn to put off the Trial of such Issue; and that after such Verdict shall have been given, and final Judgment obtained thereon, the said Commissioners shall and they are hereby required to act in conformity thereto, and to allow or disallow the Claim or Claims thereby determined, according to the Event of such Trial or Trials: Provided always, that it shall be lawful for the said Commissioners to retain or pay all such Costs, Charges, and Expences as they shall incur or be put unto, or which shall be recovered against them, in or by reason, or in consequence of any such Action or Actions, out of any Monies which shall come to their Hands for the Purposes of this Act: Provided also, that all such Determinations of the said Commissioners or Umpire, as shall not be objected to by such Notice, to be given to the said Commissioners as aforesaid, or which being so objected to, and the dissatisfied Party not causing such Action at Law to be brought and proceeded in as aforesaid, shall be absolutely final and conclusive.

Determination of Commissioners not objected to, to be final.

XIII. And be it further enacted, That if the Parties in any Action to be brought in pursuance of this Act or the said recited Act, shall die pending the same, such Action shall not abate by reason thereof, but shall be proceeded in as if no such Event had happened.

If Parties die, Proceedings not to abate.

XIV. Provided always, and be it further enacted, That no such Difference, Suit, or Proceeding, touching the Title to any Lands, Tenements, or Hereditaments, shall impede or delay the said Commissioners in the Execution of this Act; but the Division and Allotment, Embankment and Drainage hereby directed to be made, shall be proceeded in notwithstanding any such Difference, Suit, or Proceeding.

Trial not to suspend the Execution of the Powers of this Act.

XV. Provided always, and be it further enacted, That if any Person or Persons in whose Favour any such Determination as aforesaid shall have been made, and against whom any such Action or Actions might have been brought if living, shall die before any such Action or Actions shall have been brought, and before the Expiration of the Time herein-before limited for bringing such Action or Actions, it shall be lawful for the Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, who might have brought such Action or Actions against the Person or Persons so dying, to bring the same within the Time so limited as aforesaid, against such Person or Persons as if actually living; and to serve the Clerk of the said Commissioners with Process for commencing such Action or Actions, in the same Manner as the Party or Parties might have been served therewith if living; and it shall thereupon be incumbent on the Heir or Heirs, or other Person or Persons who shall claim the Benefit of such Determination

Provision in case of Death of Parties before Actions brought.

tion as aforesaid, to appear and defend such Action or Actions in the Name or Names of the Person or Persons so dead, and Proceedings shall be had therein, in the same Manner as if such Person or Persons had been actually living, and the Rights of all Parties shall be equally bound and concluded by the Event of such Action or Actions.

Persons in Possession not to be molested without due Course of Law.

XVI. Provided also, and be it further enacted, That nothing in this Act contained shall extend to enable the said Commissioners or Umpire to determine any Right between any Parties contrary to the Possession of any of such Parties (except in Cases of Encroachments made within the Period of Twenty Years as herein-after mentioned); but in case the said Commissioners shall be of opinion against the Right of the Person or Persons so in Possession, they shall forbear to make any Determination thereupon, until the Possession shall have been given up by or recovered from such Person or Persons by Ejectment or other due Course of Law.

To prevent cutting of Turf.

XVII. And be it further enacted, That if any Person or Persons, after the passing of this Act, and before the Execution of the Award, shall cut, dig, take, pare, grave, or carry away any Land, Soil, Earth, Turf, Sand, or Sods in, upon, or from the said Marshes, Commonable Lands, and Waste Grounds, or any Part thereof, without the Licence of the said Commissioners first had and obtained in Writing for that Purpose, which Licence the said Commissioners are hereby empowered to grant, every Person so offending shall, for every such Offence, forfeit and pay any Sum not exceeding Forty Shillings, to be levied and recovered in the same Manner as other Penalties are by this Act directed to be levied and recovered; One Moiety of which Penalty or Penalties shall go and be paid to the Informer or Informers, and the other Moiety thereof shall be paid to the Overseers of the Poor of the said Parish of *Wainfleet Saint Mary*, for the Benefit of such Poor.

For ascertaining Boundaries.

XVIII. And be it further enacted, That the said Commissioners shall with all convenient Speed after the passing of this Act, cause Notice of their Intention to perambulate the Boundaries of the said Parish of *Wainfleet Saint Mary*, to be inserted in some Newspaper circulated in the said County of *Lincoln*, Eight Days at least before the Time of such Perambulation, and after the Expiration of the Time to be specified in such Notice, the said Commissioners are hereby authorized and required to perambulate, inquire into, set out, ascertain, fix, and determine the Boundaries of the said Parish: Provided always, that if any Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, interested in the Determination of the said Commissioners respecting the said Boundaries, shall be dissatisfied with the Determination of the said Commissioners, such Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, or any of them, may appeal to the Justices of the Peace acting for the Division of *Lindsey*, in the said County of *Lincoln*, at any General Quarter Sessions of the Peace to be held within Four Calendar Months next after the aforesaid Publication of the said Boundaries, on giving to the said Commissioners Fourteen Days Notice in Writing of such Appeal, and of the Matter thereof, and the Decision of the said Justices therein shall be final and conclusive.

Appeal to Sessions against Boundaries.

For shortening Boundary Fences.

XIX. And be it further enacted, That if the said Commissioners shall deem it expedient or proper to shorten the Boundary Fences between the Marshes,

Marſhes, Lands, and Grounds by this Act directed to be embanked, allotted, and incloſed, and the Lands and Grounds in any Pariſh or Place adjoining thereto, or to make the ſame regular, it ſhall be lawful for the ſaid Commiſſioners, with the Conſent in Writing under the Hand or Hands of the Lord or Lords of the Manor or Manors in which the Land is ſituate, or of the Owner or Owners of the Land, upon which any Fence or Fences ſhall or may be intended to be made, to ſet out the Boundary between the Lands and Grounds by this Act directed to be embanked, allotted, and incloſed, and the Lands and Grounds in any adjoining Pariſh or Place, in ſuch Manner as they ſhall judge proper for the Purpoſe aforeſaid; and after ſuch Boundaries ſhall be ſo ſet out as aforeſaid, the ſame ſhall be fenced by ſuch Perſon or Perſons, in ſuch Manner, and at ſuch Time or Times as the ſaid Commiſſioners ſhall direct, and ſhall for ever thereafter be deemed and taken to be the Boundaries between the Pariſh of *Wainfleet Saint Mary* aforeſaid, and ſuch adjoining Pariſh or Place; any Law, Uſage, or Cuſtom to the contrary notwithſtanding.

Encroachments within Twenty Years to be deemed Part of the Waſte.

XX. And be it further enacted, That all Encroachments which at any Time within Twenty Years immediately preceding the paſſing of this Act, have been made upon the ſaid Marſhes, Commonable Lands, and Waſte Grounds, ſhall be deemed Part thereof, and ſhall be allotted accordingly; and if any Diſpute ſhall ariſe as to the Space of Time during which the ſaid Encroachments have been made or ſubſiſted, the ſame ſhall be determined by the ſaid Commiſſioners or Umpire, who ſhall proceed to ſettle ſuch Diſpute in the ſame Manner as by the ſaid recited Act they are directed to proceed in the Settlement of the Claims of Perſons to any of the Lands and Grounds hereby directed to be allotted or incloſed.

Commiſſioners may alter Roads through old Incloſures.

XXI. And be it further enacted, That in caſe it ſhall appear to the ſaid Commiſſioners that there are any public Highways, Bridle Roads, or Footways in, through, over, or on the Sides of any of the ſaid old incloſed Lands or other Lands within the ſaid Pariſh of *Wainfleet Saint Mary*, which may in the Judgment of the ſaid Commiſſioners be diverted and turned without Inconvenience to the Public, into any other Highways, Bridle Roads, or Footways, or be diverted or turned ſo as to make the ſame more convenient to the Public, or be ſtopped up or deſtroyed as ſuperfluous and unneceſſary, it ſhall be lawful for the ſaid Commiſſioners, with the Concurrence and Order of Two Juſtices of the Peace, acting in and for the Parts of *Lindſey*, in the ſaid County of *Lincoln*, (ſubject to Appeal as in this or the ſaid recited Act is mentioned,) in and by their ſaid Award to order and direct ſuch Public Highways, Bridle Roads, or Footways to be diverted, altered, turned, ſtopped up, or deſtroyed in ſuch Manner as ſuch Juſtices ſhall think proper and reaſonable; and in caſe ſuch Public Highways, Bridle Roads, or Footways ſo to be diverted, altered, turned, ſtopped up, or deſtroyed, do not paſs through any of ſuch old incloſed Lands or other Lands, but on the Sides of the ſame, to ſell and diſpoſe of the Land and Soil of ſuch Roads or Ways, and apply the Money ariſing thereby towards repairing the Public Highways within the ſaid Pariſh.

Roads dividing Pariſhes, or Places to be made up

XXII. And be it further enacted, That in caſe any Public Carriage Roads or Highways to be ſet out under the Powers and Proviſions of this Act or the ſaid recited Act ſhall be ſet out and continued in any Situation

in the Whole Forty Feet broad.

or Direction where the said Parish of *Wainfleet Saint Mary* is divided from any adjoining Parish or Place, and where there now is or usually hath been a public Road or Meerway, and such adjoining Parish or Place hath hitherto been charged or liable to be charged with One Half Part of the Repairs and Support of the said Road or Meerway; then and in such Case the said Commissioners shall, and they are hereby authorized and required to set out so many Feet only, or so much Land from and out of the said Parish of *Wainfleet Saint Mary*, hereby directed to be embanked, allotted, or inclosed, as will enlarge the Breadth of such Road or Way to Forty Feet at the least.

Allotment to the Lords of the Manor.

XXIII. And be it further enacted, That the said Commissioners shall and they are hereby required to set out, allot, and award unto and for the said Mayor and Commonalty and Citizens as Lords of the Manor of *Wainfleet Saint Mary* aforesaid, and unto the King's Majesty in right of His said Duchy of *Lancaster*, as Lord of the said Manor of *Wainfleet*, for and in lieu of their and each of their Right, Title, and Interest, in and to the Soil of the said Commonable Lands and Waste Grounds, such Part or Parts thereof as by the said Commissioners shall be deemed, declared, and adjudged to be equal in Value to their and each of their Right and Interest therein as Lords as aforesaid, in Manner following; (that is to say), One Half Part in Value of the said Manorial Allotment to be set out, allotted, and awarded unto and for the said Mayor, and Commonalty, and Citizens, as Lords of the Manor of *Wainfleet Saint Mary* aforesaid, and the other Half Part in Value thereof unto the King's Majesty, in Right of His said Duchy as Lord of the Manor of *Wainfleet* aforesaid, such Allotment and Allotments to be over and above any other Allotment or Allotments to be made to them, or either of them, in respect of any other Rights or Interests in the Commonable Lands and Waste Grounds to be allotted and inclosed by virtue of this Act.

Allotment of the Residue.

XXIV. And be it further enacted, That the said Commissioners shall set out, allot, and award the Residue of the said Commonable Lands and Waste Grounds hereby directed to be allotted and inclosed unto and amongst the several Persons who at the Time of such Allotment shall be interested therein according to their several or respective Rights and Interests therein, in lieu of and as a Compensation for all such Claims, Rights and Interests; such Proportions and Allotments to be settled and ascertained by such Ways and Means as to the said Commissioners shall seem meet, equitable, and proper, whose Determination shall be final and conclusive on all Parties.

Allotment of the Salt Marshes.

XXV. And be it further enacted, That the said Commissioners shall set out, allot, and award the said Salt Marshes unto and among the several Persons entitled thereto, according to their respective Frontages, Rights, and Interests therein.

A Bank to be made.

XXVI. And be it further enacted, That the said Commissioners shall and they are hereby authorized and required, to cause the said Salt Marshes to be embanked and inclosed from the Sea, in an effectual Manner, and also to make or cause to be made such Drains, Ditches, Watercourses, Banks, Sluices, Bridges, Staunches, and Tunnels, and other Requisites, as well in, through, over, and across the Marshes, Lands, and Grounds

hereby directed to be embanked, allotted, and inclosed, as also in, over, and through any ancient Inclosures, or other Lands or Grounds within the said Parish of *Wainfleet Saint Mary*, as shall be necessary and proper (making reasonable Satisfaction to all and every Person and Persons who may sustain any Damage thereby,) of such Dimensions, and in such Directions respectively as the said Commissioners shall think proper, for the effectual Drainage and Improvement of all the Lands in the said Parish; and for that Purpose to scour out, deepen, widen, amend, and repair all such ancient Drains, Ditches, Watercourses, Banks, Sluices, Bridges, Staunches, and Tunnels in the said Parish; and the said Commissioners shall and may, and they are hereby directed and required, in and by any Writing or Writings under their Hands, to order and determine by whom, and at whose Expence, and in what Manner all the Drains, Ditches, Watercourses, Banks, Sluices, Bridges, Staunches, Tunnels, and other Requisites to be made, cleansed, or repaired, by virtue of this Act, shall be made, scoured out, deepened, widened, amended, supported and repaired, until the Execution of their Award, to be made in pursuance of this Act, or the said recited Act, and until a Surveyor shall be appointed, as herein-after mentioned, for making such Repairs; and it shall and may be lawful to and for the said Commissioners, and they are hereby required, in and by their Award, to charge the ancient Inclosures in the said Parish with such Annual Sum, according to the improved Value, as they may think just and equitable for the future Repairs of the Drains, Banks, and Tunnels to be made through or upon such ancient Inclosures; all which Sums of Money shall be recoverable by the same Ways and Means as any Rate or Assessment for paying any Part of the Expences of obtaining and executing this Act may be recovered, and shall be applied for such Purposes as may be directed in the said Award by such Person as a Majority in Value (such Value to be ascertained by the Land Tax Assessment) of the Proprietors of the ancient Inclosures to be drained by virtue of this Act, shall appoint to recover and apply the same: Provided always, that nothing herein contained shall extend, or be construed to extend, to authorize or empower the said Commissioners, or any Person or Persons to whom any Part or Parts of the Lands and Grounds hereby directed to be embanked, allotted, or inclosed, shall be allotted by virtue of this Act, to interfere, alter, or meddle with the Banks, Drains, Sluices, Bridges, Tunnels, Engines or other Works of Drainage, made or to be made under or by virtue of an Act passed in the Second Year of the Reign of His present Majesty, intituled *An Act for draining and preserving certain Low Lands, called* The Fens, *lying on both Sides of the River* Witham *in the County of* Lincoln, *and for restoring and maintaining the Navigation of the said River from the* High Bridge, *in the City of* Lincoln, *through the Borough of* Boston *to the Sea*, or under or by virtue of an Act passed in the Forty-first Year of the Reign of His present Majesty, intituled *An Act for the better and more effectually draining certain Tracts of Land, called* Wildmore Fen, *and* The West *and* East Fens *in the County of* Lincoln, *and also the Low Lands and Grounds in the several Parishes, Townships, and Places having Right of Common on the said Fens, and other Low Lands and Grounds lying contiguous or adjoining thereto*; or under, or by virtue of an Act passed in the Forty-third Year of the Reign of His present Majesty, intituled *An Act for amending an Act passed in the Forty-first Year of the Reign of His present Majesty, for more effectually draining certain Tracts of Land, called* Wildmore

2 G. 3.

41 G. 3.

43 G. 3.

Wildmore Fen, *and* The West *and* East Fens *in the County of* Lincoln, *and other Low Lands and Grounds lying contiguous or adjoining thereto*; otherwise than for the Purpose of making and executing such Works of Drainage as may be necessary for conveying the Waters from certain Low Lands and Grounds in the Parish of *Wainfleet Saint Mary* aforesaid, lying on the West Side of the *High Street* or *High Tofts*, and also from the Lands and Grounds hereby directed to be divided and inclosed, into a certain Drain called *Hobhole Drain*, and which said Works the Commissioners for executing this Act are hereby authorized and empowered to make and execute, subject nevertheless to such and the same Rules, Orders, Regulations and Exemptions, as the same Lands and Grounds would have been subject and liable to, in case the Owners or Proprietors thereof had taken the Benefit of the Provisions made or intended to be made, for those Lands and Grounds, in and by the same Drainage Acts of the Forty-first and Forty-third Years of the Reign of His present Majesty, within the Times by the same Acts respectively for that Purpose limited.

Waters from the Steepings River, or Wainfleet Haven, not to be diverted or used, except, &c.

XXVII. Provided also, and be it further enacted, That nothing in this Act contained shall extend or be construed to extend, to authorize the said Commissioners, or any other Person or Persons, to execute any Works for the Purpose of taking or diverting any of the Waters from the *Steepings River*, or *Wainfleet Haven*, or to cause the same to pass into or through the Parish of *Wainfleet Saint Mary*, or to cause the same to be diverted from its present and ancient Course or Channel to *Wainfleet Outfall*; save and except that it shall and may be lawful to and for the said Commissioners to embank out the Flood Waters of the said Haven of *Wainfleet*, so that the same may not come upon or injure the adjacent Lands, and for the Proprietors and Inhabitants of the said Parish of *Wainfleet Saint Mary*, to take and use Water from the said Haven and River, for the Use of Cattle and Stock, in the same Manner as they have heretofore done.

Freeboards.

XXVIII. And be it further enacted, That in all Cases where any Freeboard, Screed, or Parcel of Marsh Land shall run into or be left on the Outside of any adjoining Parish or Place, all such Freeboards, Screeds, and Parcels of Marsh Land shall be and be considered as Part of the Marshes directed by this Act to be embanked and drained, and shall be embanked and drained in such and the same Manner, and under such and the same Rules, Regulations, Restrictions, and Directions as any other Marshes in the said Parish of *Wainfleet Saint Mary* may be embanked and drained under and by virtue of this Act.

Ditches to be scoured out.

XXIX. And be it further enacted, That all Owners and Occupiers of the Marshes to be embanked and drained as aforesaid, and also of the embanked Marshes within the said Parish of *Wainfleet Saint Mary*, shall from Time to Time make and keep their Boundary or Division Ditches or Drains, at least Four Feet wide at the Top, and Three Feet deep perpendicular; and shall from Time to Time cause the same to be roaded and scoured, and Bridges and Tunnels to be laid therein where necessary; and if any Person shall refuse or neglect to do the same for the Space of Fourteen Days after Notice in Writing given by the Commissioners or Surveyor of Works to be appointed and signed by Three or more Proprietors,

prietors, or their Agents or Attornies, at ſome of their Meetings to be holden for the Purpoſes of this Act, it ſhall and may be lawful to and for any Three or more of the ſaid Proprietors, or their Agents or Attornies, to cauſe and order the ſame to be done, and by Warrant under their Hands to cauſe the Charges attending the ſame to be levied by Diſtreſs and Sale of the Goods and Chattels of the Offender, returning the Overplus (if any), when demanded, to the Perſon or Perſons whoſe Goods and Chattels ſhall be ſo diſtrained and ſold.

No Horſes, &c. to be depaſtured on the Bank or Foreland for Seven Years.

XXX. And be it further enacted, That for the better Security and Preſervation of the ſaid Bank, after the ſame ſhall have been made and raiſed as aforeſaid, no Perſon or Perſons ſhall permit any Horſe, Mare, Gelding, Aſs, Mule, Bullock, Cow, or other great Cattle to feed or depaſture along, in, upon, or over the ſame or any Part thereof, or upon the Foreland of the ſaid Bank, for the Term of Seven Years, to commence from the Time the ſaid Commiſſioners ſhall make and execute their Award, under a Penalty not exceeding Five Shillings for every ſuch Horſe, Mare, Gelding, Aſs, Mule, Bullock, Cow, or other great Cattle found thereon, to be paid to the Perſon or Perſons who ſhall take and impound the ſame; which ſaid Penalty, if not paid on Demand, ſhall be levied and recovered in the ſame Manner as any other Penalty under this Act is authorized to be levied and recovered; and that it ſhall and may be lawful to and for any Perſon or Perſons having Right or Intereſt in the ſaid Marſhes hereby directed to be embanked, or any Part thereof, at any Time or Times during the ſaid Term, to take and impound any ſuch Horſe, Mare, Gelding, Aſs, Mule, Bullock, Cow, or great Cattle, as ſhall be found upon the ſaid Bank and Foreland, or any Part thereof

Horſes, &c. to be impounded.

Exchanges to be made.

XXXI. And be it further enacted, That it ſhall and may be lawful to and for the ſaid Commiſſioners to ſet out, allot, and award any Meſſuages, Buildings, Lands, Tenements, or Hereditaments, within the ſaid Pariſh of *Wainfleet Saint Mary*, in lieu of and in Exchange for any other Lands, Meſſuages, Buildings, Tenements, and Hereditaments within the ſaid Pariſh, or within any adjoining Pariſh or Place; provided that all ſuch Exchanges be aſcertained, ſpecified, and declared in the Award of the ſaid Commiſſioners, or by ſome Deed or Writing to which the ſaid Commiſſioners ſhall be Parties, and be made with the Conſent of the Owner or Owners, Proprietor or Proprietors of the Meſſuages, Buildings, Lands, Tenements, or Hereditaments which ſhall be ſo exchanged, whether ſuch Owner or Owners, Proprietor or Proprietors, ſhall be a Body or Bodies Politic, Corporate or Collegiate, or a Tenant or Tenants in Fee Simple, or for Life, or in Fee Tail General or Special, or by the Courteſy of *England*, or for Years determinable on any Life or Lives, or with the Conſent of the Guardians, Truſtees, Feoffees, for Charitable or other Uſes, Huſbands, Committees, or Attornies, of or acting for any ſuch Proprietors or Owners as aforeſaid, who at the Time of making ſuch Exchange or Exchanges, ſhall be reſpectively Infants, Femes Covert, Lunatics, or under any other legal Diſability, or who ſhall be beyond the Seas, or otherwiſe diſabled to act for themſelves, himſelf, or herſelf, (ſuch Conſent to be teſtified in Writing under the Common Seal of the Body Politic, Corporate, or Collegiate, and under the Hands of the other conſenting Parties reſpectively); and all and every ſuch Exchange and Exchanges ſo to be made, ſhall be good, valid, and effectual in the Law, to all Intents and Purpoſes whatſoever;

whatsoever: Provided nevertheless, that no Exchanges shall be made of any Messuages, Buildings, Lands, Tenements, or Hereditaments, belonging to His Majesty, His Heirs, or Successors, in Right of His Duchy of *Lancaster*, without the Consent of the Chancellor of the Duchy of *Lancaster* for the Time being, or of any Messuages, Buildings, Lands, Tenements, or Hereditaments, held in Right of any Church, Chapel, or other Ecclesiastical Benefice, without the Consent testified as aforesaid of the Patron thereof, and of the Bishop of the Diocese in which such Messuages, Buildings, Lands, Tenements, or Hereditaments, so to be exchanged, shall lie and be situate.

Costs of Exchanges and Partitions how to be paid.

XXXII. Provided always, and be it further enacted, That all Costs, Charges, and Expences attending the making and completing of any Exchanges or Partitions to be made, by virtue of the said first recited Act of the Forty-first Year of the Reign of His present Majesty, or of this Act, shall be paid and borne by the several Owners, making such Exchanges and Partitions in such Manner and in such Proportions as the said Commissioners shall, by any Writing under their Hands, or by their said Award, order and direct.

Settlements, &c. not to be affected nor Wills revoked.

XXXIII. Provided always, and be it further enacted, That nothing in this Act contained shall extend, or be construed or adjudged to extend, to revoke, make void, annul, or alter any Settlement, Deed, or Will, or to prejudice any Person having any Right or Claim of Dower, Jointure, Annuity, Debt, Charge, or Incumbrance whatsoever, in, out of, upon or affecting any of the Lands, Tenements, or Hereditaments hereby directed to be embanked, allotted, and inclosed, or which shall be exchanged or assigned in Compensation for any other Estate or Right, in pursuance of this Act respectively, but as well the Lands allotted, as the Tenements or other Hereditaments, which shall be so assigned in Exchange, or in Compensation for another Estate or Right, shall immediately after such Allotment, Exchange, or Assignment shall be made, be vested, remain, and enure, and the several Persons to whom the same shall be assigned, allotted, or given in Exchange as aforesaid, shall thenceforth stand and be seized, and possessed thereof respectively, to, for, and upon such and the same Uses, Estates, Intents, Trusts, and Purposes respectively, and subject and liable to such and the same Wills, Settlements, Limitations, and Remainders, Conditions, Charges, and Incumbrances, as the several Lands, Tenements, and Hereditaments, in respect whereof such Allotments, Assignments, and Exchanges shall have been made, should or would have stood severally limited, settled, vested, or subject, or liable to, or have been held by, in case the same had not been assigned, or exchanged, and this Act had not been made, save and except such Leases and Tenancies at Rack Rent as shall become void by virtue of this Act, and subject nevertheless to all such Mortgages and Sales as shall be made by Authority of this Act, or of the said first recited Act of the Forty-first Year of the Reign of His present Majesty.

Allotments to be of the same tenure as the Lands in respect of which they were made.

XXXIV. And be it further enacted, That all Allotments of Lands and Grounds, which shall be set out and allotted in pursuance of this Act, shall be held by the same Tenure, and shall be subject to the same yearly and other Rents and Payments, Reliefs and Fines, Dues, Duties, Suits and Services, as the several and respective Messuages, Lands, Tenements, and Hereditaments,

Hereditaments, in respect of which the said several Allotments shall be so set out or allotted, are and have heretofore been holden respectively.

Leases at Rack Rent to be void.

XXXV. And be it further enacted, That all and every Lease and Leases, Agreements, and Tenancies at Rack Rent, now subsisting, of any Part or Parts of the Lands and Grounds hereby directed to be embanked, allotted, and inclosed, or which shall by virtue of this Act, or the said first recited Act of the Forty-first Year of the Reign of His present Majesty, be exchanged, and of all Messuages, Cottages, Lands, Tenements, or Hereditaments, in the said Parish of *Wainfleet Saint Mary*, held therewith, or included in such Lease or Leases respectively, unless covenanted or agreed in such Leases, or any subsequent Agreements to the contrary, shall cease and be void at such Time or Times as the said Commissioners shall, by Writing under their Hands, order and direct, so as the respective Lessors or Landlords of such Messuages, Cottages, Lands, or Tenements, do, before or at the respective Times at which such Leases or Tenancies shall be directed to cease, make and pay such Satisfaction to the respective Lessees or Tenants, for the Loss or Injury (if any) which they shall sustain by the Determination of such Leases respectively, as shall be mutually settled and agreed between them, or as the Commissioners being thereto required by either of the Parties, shall ascertain and direct: Provided always, that if there shall be any Lease of Lands, Part of which shall lie in the said Parish of *Wainfleet Saint Mary*, and Part in any adjoining Parish, all and every such Lease or Leases upon Rack Rent now subsisting, may be vacated; but where any Land shall be taken in Exchange, which Land shall be under Lease, and wholly situate in any adjoining Parish, the Lease of such last-mentioned Land shall not be vacated.

Proprietors may sell their Interest in Allotments.

XXXVI. And be it further enacted, That it shall be lawful for any Person or Persons, who shall be entitled to any Allotment or Allotments to be made by virtue of this Act, to sell and dispose of all his, her, or their Estate, Right, Title, or Interest therein, at any Time before the Execution of the said Award, and on a proper Conveyance, Assurance, or other Disposition being executed or past, every such Assurance or Disposition shall be good, valid, and effectual in the Law; and it shall be lawful for the said Commissioners, and they are hereby authorized and required, upon the Conveyance or other Instrument by which such Sale or Disposition is confirmed being produced to them, and the Execution thereof being proved to their Satisfaction, to allot the same to the Purchaser or Purchasers thereof respectively.

Land to be sold for paying certain Expences of obtaining and executing the Act.

XXXVII. And be it further enacted, That the said Commissioners shall and may, and they are hereby authorized and required, after setting out the several Roads and Ways, in Manner by the said first recited Act, of the Forty-first Year of the Reign of His present Majesty, in the next Place to mark and set out such Part and Parts of the said Commonable Lands and Waste Grounds, as in the Judgment of the said Commissioners shall be thought proper and expedient, for the Purpose of raising Money to defray and discharge such Part of the Costs, Charges, and Expences, incident to and attending the obtaining and passing of this Act, and of preparing and depositing the Award of the said Commissioners, and the Copies thereof, and of surveying, admeasuring, planning, valuing, and allotting the said Commonable Lands and Waste Grounds, and the Charges of the said Commissioners, and their Umpire (if required to act) and of their

Clerk, Assistants and Servants, and all other necessary Expences of the several Persons to be employed by the said Commissioners in and about the said Inclosure, and all the Expences of forming, completing, and repairing the public Carriage Roads and Highways, to be set out and appointed by the said Commissioners, in, over, or upon the said Commonable Lands and Waste Grounds, which the several Persons interested in the said Commonable Lands and Waste Grounds, will be subject and liable to pay by virtue of this Act; and the said Commissioners shall, and they are hereby required to sell and dispose of such Parts and Parcels of the said Commonable Lands and Waste Grounds, in Manner directed by the said first recited Act, of the Forty-first Year of the Reign of His present Majesty, in case where Lands are authorized to be sold, for defraying the Charges and Expences of executing any Act of Inclosure, and all Lands to be sold under or by virtue of this Act, on Payment of the full Purchase Money for the same, shall be conveyed as Freehold of Inheritance, in Fee Simple unto the Purchaser or Purchasers thereof respectively, and a Conveyance or Conveyances of the same, by Lease and Release made and executed by the said Commissioners, shall be valid and effectual in the Law, to vest the same in such Purchaser or Purchasers, and his, her, and their respective Heirs and Assigns absolutely for ever; subject and liable to such Orders, Directions, and Restrictions, as shall be laid down and appointed by the said Commissioners, in and by their Award to be made by virtue of this Act; and the said Commissioners shall after Payment of the Costs, Charges, and Expences attending such Sale or Sales, or in anywise relating thereto, pay and apply the Residue of the Monies arising therefrom for the Purposes above mentioned.

Application of Surplus Money.

XXXVIII. And be it further enacted, That in case any Surplus Money shall remain after all such Proportion of the Costs, Charges, and Expences, as aforesaid, shall have been fully paid and satisfied, such Surplus Money shall be divided and apportioned between the several Persons interested in the said Commonable Lands and Waste Grounds, according to their several and respective Rights and Interests therein, and such proportional Parts and Shares of such Surplus Money shall be paid to those Proprietors who are Tenants in Fee Simple of the Estates in Right of which they shall be entitled to such Surplus Money, but the Surplus Money to which any Proprietor not being Tenant in Fee Simple may be entitled, shall be applied and disposed of in the same Manner as any Money to be paid for the Purchase or Exchange of Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, and which Money ought to be laid out in the Purchase or Exchange of other Lands, Tenements, or Hereditaments, to be settled to the same Uses, is by the said first recited Act of the Forty-first Year of the Reign of His present Majesty directed to be applied and disposed of.

Deficiency (if any) to be made good by Rate.

XXXIX. Provided always, and be it further enacted, That in case the Money arising by the Sale or Sales to be made in pursuance of this Act shall not be sufficient to defray all such Proportions of the Costs, Charges, and Expences as aforesaid; then the Deficiency shall be made up by the several Persons interested in the said Commonable Lands and Waste Grounds, and shall be paid in such Shares and Proportions within such Time and to such Person or Persons as the said Commissioners shall direct, nominate, and appoint; and in case any Person herein-before made subject to the Payment

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of any Money towards such Charges and Expences as aforesaid, shall neglect or refuse to pay his or her Share or Proportion thereof within the Time to be appointed as aforesaid, or at any Time after upon Demand, the same shall and may be levied and recovered in the Manner directed by the said first recited Act of the Forty-first Year of the Reign of His present Majesty.

Commissioners to raise Money for making Embankment.

XL. And be it further enacted, That it shall be lawful for the said Commissioners, and they are hereby authorized and required from Time to Time until the said intended Embankment and Drainage of the said Marshes, and all the Works necessary or proper for that Purpose shall be perfected, to assess, tax, and charge all and singular the said Marshes, and the Proprietors thereof with such Sum and Sums of Money, not exceeding Twenty Pounds for every Acre of the said Marshes, as they the said Commissioners shall from Time to Time find necessary and requisite for defraying the Charges and Expences of obtaining this Act, and carrying the same into Execution, as far as the same relates to the Embankment and Drainage of the said Marshes, and for enabling the Commissioners to complete the Works relating thereto, and to carry into Execution the several Powers hereby given to them for those Purposes, and to assess, rate, and charge every Proprietor of the said Marshes by an equal Acre Rate, with such Share and Part of the same Expences according and in Proportion to the Number of Acres which each such Proprietor hath in the said Marshes intended to be embanked; and all such Sum and Sums of Money so to be charged and assessed upon every Proprietor of the said Marshes shall be paid to such Person or Persons, and at such Time or Times as the said Commissioners shall order, direct, or appoint, they the said Commissioners first causing Twenty-one Days Notice of the Time of Payment thereof to be given in the Newspaper now called *The Lincoln, Rutland, and Stamford Mercury*.

Proprietors omitting to pay their Proportion of Expences, the same to be raised by Sale of Part of the Marshes.

XLI. Provided always, and be it further enacted, That in case any Proprietor or Proprietors of the said Marshes directed by this Act to be embanked, drained, and inclosed, shall refuse or neglect to pay his, her, or their Part, Share, or Proportion, or Parts, Shares, or Proportions of such Sum or Sums of Money so to be charged and assessed upon him, her, or them, as aforesaid, at or before the Time to be appointed by the said Commissioners for Payment thereof after such Notice as aforesaid, it shall and may be lawful to and for the said Commissioners, and they are hereby authorized, empowered, and required to sell and dispose of such Part or Parcel, or Parts or Parcels of the said Marshes intended to be allotted to such Proprietor or Proprietors so neglecting or refusing to pay as aforesaid, as they the said Commissioners shall judge most proper and expedient, in Manner directed by the said first recited Act of the Forty-first Year of the Reign of His present Majesty, in case where Lands are authorized to be sold for defraying the Charges and Expences of executing any Act of Inclosure; and all Lands so to be sold, on Payment of the full Purchase Money for the same, shall be conveyed as Freehold of Inheritance in Fee Simple, unto the Purchaser or Purchasers thereof respectively, and a Conveyance or Conveyances of the same by Lease and Release, made and executed by the said Commissioner, shall be valid and effectual to vest the same in such Purchaser or Purchasers, and his, her, and their respective Heirs and Assigns absolutely for ever, subject and liable to such Orders,

Directions, and Reſtrictions, as ſhall be laid down and appointed by the ſaid Commiſſioners, in and by their Award to be made by virtue of this Act; and the ſaid Commiſſioners ſhall, after Payment of the Coſts, Charges, and Expences attending ſuch Sale or Sales, or in anywiſe relating thereto, pay and apply the Reſidue of the Monies ariſing therefrom in defraying the Sum or Sums of Money ſo to be charged and aſſeſſed upon the Proprietor or Proprietors making ſuch Default, and whoſe Land ſhall have been ſo ſold for that Purpoſe, rendering the Surplus Money (if any) to ſuch Proprietor or Proprietors, in caſe he or they ſhall be Tenant or Tenants in Fee Simple of the Eſtates, in right of which he or they ſhall be entitled to ſuch Surplus Money; but in caſe ſuch Proprietor or Proprietors ſhall not be a Tenant or Tenants in Fee Simple, then ſuch Surplus Money ſhall be applied and diſpoſed of in the ſame Manner as any Money to be paid for the Purchaſe or Exchange of Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, and which Money ought to be laid out in the Purchaſe or Exchange of other Lands, Tenements, or Hereditaments, to be ſettled to the ſame Uſes, is by the ſaid firſt recited Act of the Forty-firſt Year of the Reign of His preſent Majeſty directed to be applied and diſpoſed of.

Proprietors of old Incloſures to be charged with Part of the Expences for draining.

XLII. And be it further enacted, That it ſhall and may be lawful for the ſaid Commiſſioners, and they are hereby authorized and required to aſſeſs, tax, and charge all the Proprietors of ancient incloſed Lands in the ſaid Pariſh which ſhall be improved by the Drainage to be effected by virtue of this Act, with ſuch Share and Proportion of the Charges and Expences of obtaining and executing this Act, and of effecting ſuch Drainage, as the ſaid Commiſſioners ſhall think juſt and equitable, and all ſuch Sum and Sums of Money, and the Share, Part and Proportion of ſuch Expences as ſhall be ſo charged and aſſeſſed upon every ſuch Proprietor as laſt above-mentioned, ſhall be paid to ſuch Perſon or Perſons, and at ſuch Time and Times as the ſaid Commiſſioners ſhall order, direct, or appoint, they the ſaid Commiſſioners firſt cauſing Twenty-one Days Notice, in Writing under their Hands, of the Amount of any Sum of Money required to be paid, to be given to or left at the uſual or laſt known Place of Abode of every ſuch Proprietor, or the Tenants or Occupiers of the Lands in reſpect of which ſuch Sum or Sums of Money may be charged or required to be paid; and in caſe any ſuch Proprietor ſhall refuſe or neglect to pay his, her, or their Part, Share, or Proportion of ſuch Sum or Sums of Money, ſo to be charged and aſſeſſed upon him, her, or them, as aforeſaid, at the Time appointed for Payment thereof, after ſuch Notice as aforeſaid, it ſhall be lawful for the ſaid Commiſſioners by Warrant under their Hands and Seals, to authorize and empower any Perſon or Perſons to levy the Sum and Sums of Money ſo to be charged and aſſeſſed by Diſtreſs and Sale of any Goods and Chattels of the Perſon or Perſons making ſuch Default, his, her, or their Huſbands, Guardians, Truſtees, or Attornies, wherefoever the ſame ſhall be found, rendering the Overplus (if any) on Demand to the Owner or Owners of ſuch Goods and Chattels, the reaſonable Charge of ſuch Warrant, Diſtreſs, and Sale, being firſt deducted, together with Intereſt, after the Rate of Five Pounds *per Centum per Annum*, to be computed on ſuch Sum and Sums of Money from the Time the ſame ſhall be directed to be paid by the ſaid Commiſſioners as aforeſaid, or otherwiſe to enter into and upon any of the Lands and Grounds within the ſaid Pariſh of *Wainfleet Saint Mary*, of or belonging to

the Perſon or Perſons ſo making Default, and to receive and take the Rents and Profits thereof, until thereby or therewith the Sum or Sums of Money, ſo to be charged or aſſeſſed upon him, her, or them, with Intereſt as aforeſaid, and alſo all Coſts, Charges, and Expences occaſioned by or attending ſuch Entry and Receipt of ſuch Rents and Profits as aforeſaid, ſhall be fully paid and ſatisfied.

Power for Tenants for Life to borrow Money to pay Expences of Embankment and Drainage

XLIII. And be it further enacted, That it ſhall and may be lawful to and for the Huſbands, Guardians, Truſtees, or Attornies of, or Perſons acting as Guardians, Truſtees, or Attornies for the ſaid Proprietors of the ſaid Marſhes, or of any ancient Incloſures to be drained by virtue of this Act, being under Coverture, Minors, Lunatics, or beyond the Seas, or otherwiſe incapable to act for themſelves, and to and for every of them for the Time being, and to and for any of ſuch Proprietors, being Tenants in Tail or for Life only, and to and for every of them reſpectively for the Time being, to charge the ſaid Marſhes which ſhall be embanked and drained under and by virtue of this Act, or ancient Incloſures, which ſhall be drained by virtue of this Act, with ſuch Sum and Sums of Money as they ſhall be reſpectively charged with and required to pay by the ſaid Commiſſioners, or any other Perſon for defraying the Charges and Expences of paſſing and executing this Act, and for embanking and draining the ſaid Marſhes, and for ſupporting and repairing the ſaid Banks, Drains, and other Works to be completed under this Act, not exceeding the ſeveral Sums by this Act authorized to be raiſed, and for ſecuring the Re-payment of all and every ſuch Sum and Sums of Money, with Intereſt, to grant, mortgage, leaſe, or demiſe, or otherwiſe ſubject the ſaid Marſhes or Lands herein-before directed to be embanked and drained unto ſuch Perſon or Perſons as ſhall advance and lend ſuch Sum and Sums of Money reſpectively, for any Term or Number of Years, ſo as every ſuch Grant, Mortgage, Leaſe, or Demiſe, be made with a Proviſo or Condition to ceaſe and be void, or with an expreſs Truſt to be ſurrendered when ſuch Sum or Sums of Money thereby to be ſecured, with the Intereſt thereof, ſhall be fully paid and ſatisfied, and ſo as every ſuch Grant, Mortgage, Leaſe, or Demiſe, do alſo contain a Proviſo, that the Perſon or Perſons entitled in Remainder or Reverſion to any ſuch Lands, ſhall not be liable upon his, her, or their becoming poſſeſſed thereof, to the Payment of any further or larger Arrear of Intereſt, than for Six Calendar Months preceding the Time that his, her, or their Title to ſuch Poſſeſſion ſhall have commenced.

Tenants in Tail, &c. may charge by Will the Money advanced by them.

XLIV. And be it further enacted, That it ſhall be lawful for the Huſbands, Guardians, Truſtees or any Tenant or Tenants in Tail or for Life, of any of the ſaid Marſhes or ancient Incloſures, by any Deed or Deeds in Writing, or by his, her, or their laſt Will and Teſtament, duly executed according to Law, to charge their ſaid Marſhes or ancient Incloſures which have not been ſo mortgaged, with ſuch Sum or Sums of Money as ſhall be appointed to be paid by virtue of this Act, and which ſhall be certified by any Writing under the Hands of the ſaid Commiſſioners, or of any other Perſon empowered to receive the ſame, to have been accordingly paid, which Sum and Sums of Money ſo charged ſhall be payable within One Year next after the Deceaſe of the Perſon or Perſons, charging the ſame with Intereſt, after the Rate of Five Pounds *per Centum per Annum*, to be computed from his, her, or their reſpective Deceaſes,

Deceaſes, unto ſuch Perſon or Perſons as ſhall by ſuch Deeds or Wills, and Teſtaments, be entitled to receive the ſame.

All ſuch Charges to be valid.

XLV. And be it further enacted, That every ſuch Grant, Mortgage, Leaſe or Demiſe, and every ſuch Charge as aforeſaid to be made of or upon any of the ſaid Marſhes or ancient Incloſures, ſhall be good, valid, and effectual in the Law, for the Purpoſes thereby intended.

Commiſſioners may borrow Money until Sale or Aſſeſſment made.

XLVI. And be it further enacted, That in caſe it ſhall be found expedient or neceſſary before ſuch Sale as aforeſaid can be effected, or any ſuch Rate or Aſſeſſment be made to raiſe any Sum or Sums of Money for defraying the Expences aforeſaid, it ſhall be lawful for the ſaid Commiſſioners to borrow, and take up at Intereſt ſuch Sum or Sums of Money as they ſhall from Time to Time think neceſſary for the Purpoſes aforeſaid, which Money ſo to be borrowed ſhall be repaid with Intereſt after the Rate of Five Pounds *per Centum per Annum*, out of the Monies to be raiſed from ſuch Sale or Sales as aforeſaid, and ſhall in the mean Time be a Charge upon the ſaid Marſhes, ancient Incloſures, Commonable Lands and Waſte Grounds, or ſuch Part or Parts thereof as the ſaid Commiſſioners ſhall think proper ſo to charge therewith.

Money advanced for obtaining and executing the Act to be repaid with Intereſt.

XLVII. And be it further enacted, That if any Perſon or Perſons ſhall advance and pay any Money in Diſcharge of the Fees or other Expences of obtaining and carrying this Act into Execution, the Money ſo paid and advanced ſhall be repaid and ſatisfied by the ſaid Commiſſioners, together with lawful Intereſt for the ſame, out of the firſt Monies to be raiſed by virtue of this Act, or the ſaid firſt recited Act of the Forty-firſt Year of the Reign of His preſent Majeſty.

Commiſſioners to account.

XLVIII. And be it further enacted, That the ſaid Commiſſioners ſhall, and they are hereby required to keep or cauſe to be kept, a true and juſt Account in Writing, of all and every Sum and Sums of Money to be by them received, paid, laid out and expended for the Purpoſe of this Act, together with the reſpective Times of receiving, paying, laying out, and expending ſuch Sum and Sums of Money reſpectively, and ſhall permit any of the Perſons intereſted in the ſaid Marſhes, Lands, and Grounds to be embanked and allotted, incloſed or drained to inſpect ſuch Account, with the Vouchers for all the Money therein admitted to have been received or charged to have been paid by them or by their Orders.

Auditor of the Commiſſioners Accounts.

XLIX. And be it further enacted, That *James Torkington* Eſquire of *The Inner Temple*, *London*, Barriſter at Law, ſhall be and he is hereby appointed Auditor of the Accounts of the ſaid Commiſſioners, and in caſe of his Death or Refuſal to act, then ſome other fit and proper Perſon not intereſted in the Premiſes ſhall be appointed Auditor for that Purpoſe, by the Majority in Value of the Proprietors, ſuch Value to be aſcertained by the Land Tax Aſſeſſment; and ſo from Time to Time, as often as Occaſion ſhall require, and the Accounts of the ſaid Commiſſioners for the Time being containing a true Statement of all Sums, by ſuch Commiſſioners received and expended, or due to them for their own Time, Trouble or Expences, ſhall at leaſt Once in every Year from the paſſing of this Act (if required) until ſuch Accounts ſhall be finally allowed, together with the Vouchers relating to the ſame; be examined by the ſaid Auditor

for

for the Time being, and the Balance by him ſtated in the Book of Accounts to be kept in the Office of the Clerk to the ſaid Commiſſioners, and that no Charge or Item in ſuch Accounts ſhall be binding on the Parties concerned or valid in the Law, unleſs the ſame ſhall be duly allowed by the ſaid Auditor.

Books to be kept, and Entries of Proceedings good Evidence.

L. And be it further enacted, That fair and regular Entries ſhall be made in a Book or Books to be provided for that Purpoſe, of all the Acts, Orders, Rules, Regulations, Directions, and Proceedings of the ſaid Commiſſioners relative to the Execution of this Act, and the ſame ſhall be ſigned with the Names of the ſaid Commiſſioners, and all ſuch Entries being ſo ſigned ſhall be allowed to be read in Evidence in all Courts whatſoever, in all Caſes, Suits, and Actions touching any Thing done in purſuance of this Act, reſpecting the ſaid Embankment, Drainage, and Incloſure.

Commiſſioners to make Award to be depoſited with One of the Clerks of the Peace.

LI. And be it further enacted, That the ſaid Commiſſioners ſhall, as ſoon as conveniently may be, form and draw up an Award in Writing, agreeably to the Directions of this Act, and of the ſaid firſt recited Act of the Forty-firſt Year of the Reign of His preſent Majeſty, with a proper Plan or Map thereto annexed, in the Manner preſcribed by the ſaid Act, which ſaid Award ſhall be fairly engroſſed or written on Parchment, and be ſigned by the ſaid Commiſſioners, and within Six Calendar Months, or as ſoon after as conveniently may be, after the ſame ſhall have been ſigned as aforeſaid, be depoſited with the Clerk of the Peace for One of the Diviſions of the ſaid County of *Lincoln*, who is hereby required to receive, keep, and depoſit the ſame among the Records of the ſaid County, for the Reception and depoſiting whereof the Sum of Three Pounds Three Shillings and no more ſhall be paid, to the end that Recourſe may be had thereto by all Perſons intereſted in the ſaid Embankment, Drainage, and Incloſure, for the Inſpection of which ſaid Award the Sum of One Shilling ſhall be paid, and no more; and the ſaid Award ſhall, from and after the Delivery thereof to the ſaid Clerk of the Peace, be deemed and taken to be enrolled according to the Directions and within the Meaning of the ſaid firſt recited Act of the Forty-firſt Year of the Reign of His preſent Majeſty, and a true Copy thereof, or of any Part thereof, when and as often as the ſame ſhall be required, ſhall be delivered to any Perſon or Perſons, ſigned by the ſaid Clerk of the Peace, or his Deputy, for the Time being, purporting the ſame to be a true Copy, for which no more than Two-pence *per* Sheet, reckoning Seventy-two Words to each Sheet, ſhall be paid, which ſaid Copy, as alſo the original Award, and the Copy herein-after directed to be written on Parchment, and ſigned by the ſaid Commiſſioners, ſhall at all Times hereafter be admitted as legal Evidence in all Courts whatſoever; and the ſaid Commiſſioners are hereby directed and required to deliver a Copy of the Award fairly written on Parchment, with a proper Map or Plan or Plans thereto annexed, ſigned by the ſaid Commiſſioners as aforeſaid, unto the Churchwardens of the ſaid Pariſh of *Wainfleet Saint Mary*, for the Time being, to be by them depoſited in the Pariſh Cheſt of *Wainfleet Saint Mary* aforeſaid, to the end that Recourſe may be had thereto by the ſeveral and reſpective Proprietors or Parties intereſted therein, without Fee or Reward.

Works of Embankment and Drainage,

LII. And be it further enacted, That as ſoon as the ſaid Banks, Drains, Sluices, Tunnels, and other Works, in, over, or upon the ſaid Marſhes and

after Commissioners Award to be under the Inspection of a Surveyor.

and old Inclosures shall be made and perfected, and the said Commissioners shall have executed their Award, the said Banks and other Works in, over, or upon the said Marshes and old Inclosures, shall from Time to Time be under the Care and Inspection of, and as often as necessary shall be repaired and amended, and kept in good Repair and Condition, by a Person to be appointed Surveyor thereof by a Majority in Value (such Value to be ascertained by the Land Tax Assessment) of the several Proprietors for the Time being, of the said Marshes and old Inclosures hereby directed to be embanked and drained, or their Agents or Attornies, who shall be present at a Meeting to be held in the said Parish of *Wainfleet Saint Mary*, on the *Thursday* in *Easter* Week, in every Year, or oftener if required, as herein-after is mentioned, or in case there shall be an Equality in the Votes of the Proprietors, or their Agents or Attornies then present, then the Proprietor present at such Meeting who shall be the Owner of the greater Number of Acres of the said Marshes and old Inclosures, shall have the casting Vote, and that the Surveyor who shall be so appointed as aforesaid, shall be allowed and paid such Yearly or other Salary or Wages for his Trouble, as shall be thought reasonable at the Time of his Appointment to his said Office, and in case it shall happen that no new or other Surveyor shall be appointed at such annual Meeting as aforesaid, then the former Surveyor shall continue in his said Office, at the same Salary and Wages for his Trouble for the succeeding Year, unless he shall be desirous of resigning such Office, and of such his Desire shall have given public Notice in the Parish Church of *Wainfleet Saint Mary* aforesaid, immediately after Divine Service, or by Writing to be affixed on the Outer Door of the said Church, upon some *Sunday*, at least Three Weeks before the Time of holding such Annual Meeting.

New Surveyors to be appointed on Vacancies.

LIII. And be it further enacted, That if the said Surveyor so to be appointed as aforesaid, shall happen to die before the Expiration of the Year for which he shall have been appointed, or shall become incapable of executing his said Office of Surveyor, or shall misconduct himself therein, then and in any of the said Cases it shall and may be lawful to and for any of the said Proprietors for the Time being of the said Marshes and old Inclosures, or their Agents or Attornies, to call a Meeting of the several Proprietors of the said Marshes and old Inclosures, of which Meeting public Notice shall be given in the Parish Church of *Wainfleet Saint Mary* aforesaid, immediately after Divine Service, on some *Sunday*, at least Fourteen Days previous to such Meeting, in order to choose a new Surveyor for the then residue of the Year, and until the next annual Meeting of the Proprietors of the said Marshes, and to remove the old Surveyor, in case of his becoming incapable of executing, or of his misconducting himself in his said Office, and the Surveyor who shall be then appointed, shall be paid a Proportion of the Salary allowed to the former Surveyor, according to the Time which shall be then to come of the Year, and the Salary of the former Surveyor shall cease at the Time of his Death, or of his being removed from his Office as aforesaid.

Surveyor may alter Works and erect new Works.

LIV. And be it further enacted, That if after the said Embankment and Drainage of the said Marshes and old Inclosures shall have been completed, and the said Commissioners shall have executed their Award, it shall be necessary to make any Alteration in the Banks, Drains, Sluices, or other Works so to be made upon or in the said Marshes and old Inclosures,

cloſures, or to make any new Bank or Banks, Drain or Drains, or other Works upon the ſaid Marſhes, for the better Protection and Drainage of the ſame, ſuch Alteration or new Bank or Banks, Drain or Drains, or other Works may from Time to Time be made by the Surveyor, ſo to be appointed as aforeſaid, by the Order of the Majority in Value (ſuch Value to be aſcertained as aforeſaid) of the Proprietors for the Time being of the ſaid Marſhes and old Incloſures, or their Agents or Attornies, who ſhall be aſſembled at a Meeting to be held for the Purpoſes of determining upon ſuch Alterations or new Works, and which Meeting ſhall be called in the ſame Manner as is herein-before directed, with reſpect to the calling of the Meetings for the Purpoſe of chooſing a new Surveyor, and removing an old one, except that Notice of ſuch Meeting ſhall be given for Three ſucceſſive *Sundays*, previous to ſuch Meeting, inſtead of being only Once given, and the Expences of making ſuch Alterations or new Works ſhall be raiſed and paid out of any Rate to be aſſeſſed and collected in the Manner herein-after authorized; and in caſe any ſuch Alterations or new Works as aforeſaid ſhall be made, the ſame, when made, ſhall be kept in Repair, and may from Time to Time be altered, in the ſame Manner as is herein-before directed with reſpect to the ſaid Banks, Drains, and other Works to be repaired under the Inſpection of the ſaid Surveyor.

Surveyor may levy Rates to be allowed by Proprietors.

LV. And be it further enacted, That for the better enabling the ſaid Surveyor for the Time being to raiſe Money, for the Purpoſe of carrying into Execution the Powers hereby repoſed in him, it ſhall and may be lawful to and for the Surveyor for the Time being, when and as often as Occaſion ſhall require, to make an equal Acre Rate or Aſſeſſment upon all and every the Proprietors of the ſaid Marſhes hereby directed to be embanked and drained; and alſo to rate and tax all and every the Proprietors of the ancient Incloſures in the ſaid Pariſh, which ſhall be improved by the Drainage to be effected under this Act, with ſuch Share and Proportion of the Money neceſſary to be raiſed from Time to Time by the ſaid Surveyor, for the Purpoſe aforeſaid, as he ſhall deem juſt and equitable; all which Rates or Aſſeſſments having been allowed and ſigned by a Majority in Value (ſuch Value to be aſcertained as aforeſaid) of the Perſons intereſted in ſuch Marſhes and old Incloſures reſpectively, or their Agents or Attornies, for that Purpoſe ſpecially appointed, who may be preſent at a Meeting, to be called in the ſame Manner as herein-before is mentioned with reſpect to the Choice of a new Commiſſioner, for the Purpoſe of getting ſuch Rates or Aſſeſſments conſidered and allowed, ſuch Majority not being leſs than Three in Number, ſhall be collected and received by the Surveyor for the Time being; and in caſe any of the Proprietors for the Time being ſhall refuſe or neglect to pay ſuch Rates or Aſſeſſments immediately after the ſame ſhall be ſo made, ſigned, and allowed, (being firſt lawfully demanded of ſuch Proprietors reſpectively, or their Leſſees or Tenants of the Marſhes and old Incloſures for the Time being), then it ſhall and may be lawful to and for any Juſtice of the Peace, acting in and for the Parts of *Lindſey*, in the ſaid County of *Lincoln*, to make Inquiry of ſuch Default, by ſummoning to appear before ſuch Juſtice, ſuch Proprietor or Tenant, of whom ſuch Rates or Aſſeſſments ſhall have been demanded (and for this Purpoſe Notice in Writing, left at the uſual Reſidence of the Perſon intended to be ſummoned, or of his Leſſee or Tenant, ſhall be a good Summons); and

if ſuch Defaulter ſhall be thereof convicted, either by his own Confeſſion, or upon the Oath of the Surveyor for the Time being, or any other competent and credible Witneſs, (which Oath the ſaid Juſtice is hereby empowered to adminiſter), or ſhall not appear purſuant to ſuch Summons, the ſaid Juſtice ſhall and is hereby required to levy the ſaid Rates or Aſſeſſments, by Diſtreſs and Sale of the Goods and Chattels to be found and taken upon the Lands and Grounds in reſpect whereof ſuch Rates or Aſſeſſments ſhall be and remain unpaid, in the ſame Manner as ſuch Goods and Chattels might be diſtrained and ſold for Rent in Arrear, together with the reaſonable Coſts and Charges attending ſuch Summons, Diſtreſs, and Sale, to be ſettled and allowed by the ſaid Juſtice, rendering the Overplus (if any) on Demand, to the Owner or Owners of ſuch Goods and Chattels.

Lands untenanted to remain a Security for Taxes.

LVI. Provided always, and be it further enacted, That in caſe any Part of the ſaid Marſhes and old Incloſures to be embanked and drained as aforeſaid, ſhall at any Time hereafter be untenanted or unoccupied, ſo that no ſufficient Diſtreſs can be made for levying the ſaid Rates and Taxes, then the Marſhes and old Incloſures chargeable therewith ſhall always remain a Security for Payment thereof, and all Goods and Chattels which ſhall at any Time thereafter be found thereon ſhall and may be diſtrained, impounded, kept, and ſold in Manner aforeſaid, until all Arrears of the ſaid Rates and Taxes, and the Charges incident to ſuch Diſtreſs, ſhall be fully paid and ſatisfied; and in caſe any Leſſee or Leſſees, Tenant or Tenants of the ſaid Marſhes and old Incloſures or any Part thereof, ſhall advance and pay ſuch Rates or Aſſeſſments, it ſhall and may be lawful to and for ſuch Leſſee or Leſſees, Tenant or Tenants reſpectively (unleſs there ſhall be any Agreement to the contrary between him, her, or them, and his, her, or their Landlord or Landlords) to reimburſe him, her, or themſelves reſpectively out of his, her, or their reſpective Rent or Rents to be or become payable for the Marſhes and old Incloſures in reſpect whereof ſuch Payments ſhall have been made, and that a Tender to the Proprietor or Proprietors of ſuch Marſhes and old Incloſures, or to their Agents or Attornies, of the Receipt or Receipts of the Surveyor appointed as aforeſaid for ſuch Payment or Payments made by ſuch Leſſee or Leſſees, Tenant or Tenants, ſhall be conſidered, deemed, and taken in part Payment of ſuch Rent and Rents reſpectively, or ſo much thereof for which ſuch Receipt or Receipts ſhall be ſo given.

Surveyor to account.

LVII. And be it further enacted, That every Surveyor ſo to be appointed as aforeſaid, ſhall, annually at the ſaid Meeting to be held in the ſaid Pariſh of *Wainfleet Saint Mary*, or oftener if required, by Three at leaſt of the ſaid Proprietors, or their Agents or Attornies, render and deliver to the Perſons aſſembled at the ſaid Annual Meeting, or at ſome other Meeting to be called for the Purpoſe of examining and ſettling the Accounts of the ſaid Surveyor, a true, exact, and juſt Account in Writing, under his the Surveyor's Hand, of all and every Sum or Sums of Money had and received, paid, laid out, and expended by him or them in the Execution of his ſaid Office, together with proper Vouchers for all Monies which ſhall have been ſo paid up to the Time of rendering ſuch Account, and ſhall verify ſuch Account upon Oath before a Juſtice of the Peace acting for the County, City, or Place where ſuch Surveyor ſhall be, or reſide, if thereunto required by a Majority in Value (ſuch Value

to

to be ascertained as aforesaid) of the Proprietors of the said Marshes and Inclosures respectively, or their Agents or Attornies, who shall audit such Account, and shall pay to the succeeding Surveyor, or to the Surveyor for the Time being, or unto such Person or Persons as the Majority in Value (such Value to be ascertained as aforesaid) of the said Proprietors, or their Agents or Attornies, at such Meeting as aforesaid, by Writing under their Hands, shall authorize to receive the same, all such Money as shall upon the balancing of the said Account be adjudged by them or the major Part of them then present (such Majority to be ascertained as aforesaid) to be due from such Surveyor, and deliver up all the Books, Writings, and Vouchers respecting the said Office, to the said Proprietors, or their Agents or Attornies, or to such other Person or Persons as shall be by them, or the major Part of them as aforesaid, authorized to receive and take the same; and in case any such Surveyor shall refuse or wilfully neglect to render, give in, and make such Account and Payment as aforesaid, (verified in the Manner herein-before mentioned), or shall refuse or wilfully neglect to deliver up all such Books, Writings, and Vouchers as aforesaid, or give Satisfaction respecting the same within Ten Days after being thereunto required, by Notice in Writing, given to or left at the last or usual Place of Abode of such Surveyor, then and in every such Case, upon Complaint made by such Proprietors or their Agents or Attornies, or by such Person or Persons as shall be by them, or the major Part of them as aforesaid, authorized to receive and take the same, of any such Refusal or wilful Neglect as aforesaid, to any Justice of the Peace for the County, City, or Place wherein such Surveyor so refusing or wilfully neglecting shall be or reside, such Justice may, and he is hereby authorized and required to issue a Summons or Warrant under his Hand and Seal for the Surveyor so refusing or wilfully neglecting to appear before him; and upon his appearing, or having been summoned and not appearing, or not being to be found, to hear and determine the Matter in a summary Way, and if upon the Confession of the Party, or by the Testimony of any credible Witness or Witnesses upon Oath (which Oath such Justices are hereby empowered to administer) it shall appear to such Justice that any of the Monies that shall have been collected and raised by virtue of this Act shall remain due from such Surveyor, such Justice may, and he is hereby authorized and required, upon Non-payment thereof, by Warrant under his Hand and Seal, to cause such Money to be levied by Distress and Sale of the Goods and Chattels of such Surveyor; and if no Goods or Chattels of such Surveyor shall found sufficient to answer and satisfy the said Money and the Charges of distraining and selling the said Goods and Chattels, or if it shall appear to such Justice that such Surveyor shall have refused or wilfully neglected to render and give such Account, or to verify the same as aforesaid, or to produce the Vouchers relating thereto, or that any Books, Papers, or Writings relating to the Execution of this Act shall be in the Custody or Power of such Surveyor, and he shall have refused or wilfully neglected to deliver or give Satisfaction respecting the same as aforesaid, then and in each and every such Case such Justice shall commit such Surveyor to the Common Gaol or House of Correction for the County, City, or Place where such Surveyor shall be or reside, there to remain without Bail or Mainprize, until he shall give and make a true and perfect Account and Payment as aforesaid, or until he shall have compounded for the same and paid such Composition in such Manner as the said Proprietors shall appoint, (which Composition the Majority in Value

(ſuch Value to be aſcertained as aforeſaid) of the ſaid Proprietors or their Agents preſent at any Meeting to be called for that Purpoſe are hereby empowered to make and receive), and until he ſhall deliver up ſuch Books, Papers, and Writings, or give Satisfaction in reſpect thereof to the ſaid Proprietors; but no ſuch Surveyor ſhall be detained or kept in ſuch Common Gaol or Houſe of Correction, by virtue of this Act, for want of ſufficient Diſtreſs, for any longer Space of Time than Six Calendar Months.

Surveyor to give Security.

LVIII. And be it further enacted, That every Surveyor who ſhall be ſo appointed as aforeſaid, ſhall give ſuch Security for the due Execution of his ſaid Office as the Proprietors for the Time being ſhall at the Time of ſuch Appointment think reaſonable and neceſſary.

Puniſhment for deſtroying Works.

LIX. And be it further enacted, That if any Perſon or Perſons ſhall wilfully and maliciouſly cut, demoliſh, break down, or deſtroy any Bank, Dam, Sluice, Gowt, Clough, Bridge, Tunnel, or other Works already made, or which ſhall at any Time or Times hereafter be made or erected for the Purpoſes of this Act, all and every Perſon or Perſons ſo offending, and being convicted, ſhall be guilty of Felony, and the Court before whom ſuch Perſon or Perſons ſhall be tried and convicted, ſhall have Power and Authority to cauſe ſuch Perſon or Perſons to be tranſported beyond the Seas for Seven Years, or in Mitigation of ſuch Puniſhment may award ſuch Sentence as the Laws allow in caſe of Petit Larceny.

Penalty on Perſons damaging Works.

LX. And be it further enacted, That if any Perſon or Perſons ſhall wilfully or maliciouſly ſtop, dam up, or damage any Drain, Watercourſe, Dam, Bridge, Still, or other Work or Works, which ſhall at any Time hereafter be making or erecting, or made or erected, ſupported, maintained, or uſed for any of the Purpoſes of this Act, every Perſon ſo offending, and being thereof convicted before any Two or more Juſtices of the Peace, acting for the Parts of *Lindſey*, in the ſaid County of *Lincoln*, on the Oath of One or more credible Witneſs or Witneſſes (which Oath ſuch Juſtices are hereby authorized to adminiſter), ſhall forfeit and pay any Sum not exceeding the Sum of Twenty Pounds, to be levied by Diſtreſs and Sale of the Goods and Chattels of every ſuch Offender by Warrant under the Hand or Hands of ſuch Juſtice or Juſtices; and ſuch Money when ſo levied ſhall be paid to the ſaid Commiſſioners or any Surveyor of Works, to be appointed by virtue of this Act, and ſhall be applied towards the Diſcharge of the Expences attending the Execution of this Act; and for want of ſufficient Diſtreſs, ſuch Offender or Offenders ſhall by the ſaid Juſtices be committed to the Common Gaol of the ſaid County of *Lincoln*, for any Time not exceeding Twelve Calendar Months, at the Diſcretion of the ſaid Juſtices.

Recovery of Penalties.

LXI. And be it further enacted, That all Penalties, Forfeitures and Fines impoſed or authorized to be impoſed by virtue of this Act, or the ſaid firſt recited Act of the Forty-firſt Year of the Reign of His preſent Majeſty, or by the ſaid Commiſſioners under the Authority of this Act, or the ſaid firſt recited Act of the Forty-firſt Year of the Reign of His preſent Majeſty, if the Manner of levying and recovering thereof

is not herein otherwise directed, shall be levied and recovered before any one of the Justices of the Peace, for the Parts of *Lindsey*, in the said County of *Lincoln*, not interested in the Matter in Question, for which Purpose it shall be lawful for any Justice of the Peace, upon Complaint made to him, to summon the Party accused, and the Witnesses on both Sides, and upon the Appearance or Contempt of the Party accused to examine such Witnesses upon Oath (which Oath any such Justice is hereby empowered to administer), and upon such Evidence to give Judgment accordingly, and to condemn the Party accused, Proof of the Accusation being made by One or more Witness or Witnesses as aforesaid, in such Penalties, Forfeitures and Fines, as the Offender or Offenders shall have incurred; and to levy such Penalties, Forfeitures and Fines, by Distress and Sale of the Goods and Chattels of the Offender or Offenders, together with the reasonable Costs attending the same; all which Penalties, Forfeitures and Fines, the Application whereof is not particularly directed by this Act, or the said first recited Act of the Forty-first Year of the Reign of His present Majesty, shall, when and so soon as the same shall be levied, be paid and applied to and for such Uses, Intents or Purposes as the said Commissioners in and by any Writing or Writings under their Hands, or in and by their Award, shall order, direct or appoint.

LXII. And, for the more easy and speedy Conviction of Offenders against this Act, be it further enacted, That every Justice of the Peace, before whom any Persons shall be convicted of any Offence against this Act, shall and may cause the Conviction to be drawn up according to the following Form, or in any other Form to the same Effect, as the Case shall happen; (that is to say),

Form of Conviction.

To wit. { 'BE it remembered, That on [*Time of Conviction*] at [*Place of Conviction*] *A. B.* [*Name of Offender*] of [*Addition of Offender*] was duly convicted before me (*or* us) [*Name and Stile of convicting Justice or Justices*] for that the said *A. B.* [*Name of Offender*] on [*Time of committing Offence*] at [*Place of committing Offence*] did [*here state the Offence against the Act, according to the Fact,*] contrary to the Form of the Statute, made in the Fifty-third Year of the Reign of His Majesty King *George* the Third, intituled [*here set forth the Title of this Act*] and I (*or* we) do declare and adjudge that the said *A. B.* [*Name of Offender*] has forfeited for the said Offence the Sum of [*Fine*] or shall be committed to [*Place of Imprisonment*] for the Space of [*Time of Imprisonment*] Given under my Hand and Seal (*or* our Hands and Seals) the Day and Year first above written.'

Persons aggrieved may appeal to the Quarter Sessions.

LXIII. And be it further enacted, That if any Person or Persons shall think himself, herself, or themselves aggrieved by any Thing done, or omitted to be done, in pursuance of this Act, or the said first recited Act of the Forty-first Year of the Reign of His present Majesty, other than and except such Orders and Determinations of the said Commissioners or Umpire as are in this Act or the said first recited Act of the Forty-first Year of the Reign of His present Majesty, directed to be final, binding or conclusive, and except in such Cases where an Issue at Law shall be tried as herein-before mentioned then and in every such Case he, she or they may

may appeal to the General Quarter Seſſions of the Peace, which ſhall be holden for the ſaid County of *Lincoln*, within Four Calendar Months next after the Cauſe of Complaint ſhall have ariſen, on giving to the ſaid Commiſſioners or their Clerk, and to the Party or Parties concerned, Twenty-eight Days Notice in Writing of ſuch Appeal, and of the Matter thereof; and the Juſtices not intereſted in the Premiſes, in their ſaid General Quarter Seſſions, are hereby required to hear and determine the Matter of every ſuch Appeal, and to make ſuch Order and to award ſuch Coſts and Damages as to them in their Diſcretion ſhall ſeem reaſonable, and by their Order or Warrant to levy the Coſts and Damages which ſhall be ſo awarded, by Diſtreſs and Sale of the Goods and Chattels of the Party or Parties liable to pay the ſame, rendering the Overplus (if any) to the Owner or Owners of ſuch Goods and Chattels, after deducting the reaſonable Charges of ſuch Warrant, Diſtreſs and Sale; and the Determination of the ſaid Juſtices ſhall be final and concluſive to all Parties concerned, and ſhall not be removed by *Certiorari* or any other Writ or Proceſs whatſoever, into any of His Majeſty's Courts of Record at *Weſtminſter* or elſewhere; but in caſe ſuch Appeal ſhall appear to the ſaid Juſtices to be frivolous, vexatious, or without Foundation, then the ſaid Juſtices ſhall award ſuch Coſts to be paid by the Appellant or Appellants as to them in their Diſcretion ſhall ſeem reaſonable, and to be levied in Manner aforeſaid.

Proceedings not to be quaſhed for Want of Form, nor removeable by Certiorari.

LXIV. And be it further enacted, That no Order, Determination, Judgment, Conviction, Warrant, or other Proceedings to be had, touching the Conviction of any Offender or Offenders againſt this Act, or any Order, Rate, or Aſſeſſment to be made, or any other Matter or Thing to be done or tranſacted in or relating to the Execution of this Act, ſhall be quaſhed or vacated for Want of Form only, or be removed or removable by *Certiorari*, or any other Writ or Proceſs whatſoever, into any of His Majeſty's Courts of Record at *Weſtminſter*, any Statute, Law or Uſage to the contrary thereof in anywiſe notwithſtanding.

Diſtreſs not unlawful for Want of Form.

LXV. And be it further enacted, That where any Diſtreſs ſhall be made for any Tax, Rate, or Sum of Money, to be levied by virtue of this Act, the Diſtreſs itſelf ſhall not be deemed unlawful, nor the Party or Parties making the ſame be deemed a Treſpaſſer or Treſpaſſers, on Account of any Defect or Want of Form in the Rate or Aſſeſſment to be made, or in the Information, Summons, Conviction, Warrant, Diſtreſs, or other Proceeding relating thereto, nor ſhall the Party or Parties diſtraining be deemed a Treſpaſſer or Treſpaſſers *ab initio*, on account of any Irregularity which ſhall be afterwards done by the Party or Parties ſo diſtraining; but the Perſon or Perſons ſo aggrieved by ſuch Irregularity, ſhall and may recover full Satisfaction for the Special Damage, in an Action upon the Caſe.

Limitation of Actions.

LXVI. And be it further enacted, That no Action or Suit ſhall be commenced or proſecuted againſt any Perſon or Perſons, for any Thing done or omitted to be done by virtue or in purſuance of this Act, until after Thirty Days Notice thereof in Writing, ſigned by the Party or Parties aggrieved, ſhall have been given to the Party or Parties complained of, or left at his, her, or their laſt or uſual Place or Places of Abode, thereby ſetting forth the Cauſe of ſuch Action or Suit, nor after ſufficient Satisfaction

or

or Tender thereof hath been made to the Party or Parties aggrieved, nor after Six Calendar Months next after the Fact committed, or the Cauſe of ſuch Action ſhall have ariſen; and every Action commenced and proſecuted againſt any Perſon or Perſons for any Thing done in purſuance of this Act, ſhall be brought and laid in the ſaid County of *Lincoln*, and not elſewhere; and the Defendant or Defendants in every ſuch Action or Suit, ſhall and may plead at his, her, or their Election, ſpecially, or the General Iſſue, and if in Replevin, may juſtify and avow by virtue of this Act, and give this Act and the ſpecial Matter in Evidence at any Trial to be had thereupon, and that the ſame was done in purſuance or by the Authority of this Act; and if upon the Trial of ſuch Action it ſhall appear to have been ſo done, or that ſuch Action or Suit ſhall be brought before the Expiration of Thirty Days next after ſuch Notice ſhall have been given as aforeſaid, or after ſufficient Satisfaction made or tendered as aforeſaid, or after the Time limited for bringing the ſame as aforeſaid, or be brought or laid in any other County than as aforeſaid, then and in every ſuch Caſe the Jury ſhall find a Verdict for the Defendant or Defendants, Avowant or Avowants; and in Caſes where a Verdict ſhall be found for any Defendant or Defendants, Avowant or Avowants, in any Action or Suit, or the Plaintiff or Plaintiffs therein ſhall diſcontinue the ſame after the Defendant or Defendants ſhall have appeared thereto, or ſhall be nonſuited, or, if upon Demurrer Judgment ſhall be given againſt ſuch Plaintiff or Plaintiffs, then and in every ſuch Caſe the Defendant or Defendants, Avowant or Avowants, ſhall recover Treble Coſts, and have ſuch and the like Remedy for recovering the ſame, as any Defendant or Defendants, Avowant or Avowants, hath or have for recovering Coſts of Suit in any other Caſe by Law.

Extract of Award to be tranſmitted to the Clerk of the Duchy of Lancaſter.

LXVII. And be it further enacted, That the ſaid Commiſſioners ſhall make an Extract under their Hands of ſo much of their Award as ſhall contain an accurate Deſcription of the Allotment to be ſet out to His Majeſty, together with ſuch Regulations or Proviſions relative to ſuch Allotment, or to any other Rights or Intereſts of His Majeſty, if any, as may be contained in ſuch Award, and ſhall annex to ſuch Extract a Map or Plan thereof, and tranſmit the ſame to the Clerk of the Council of His Majeſty's Duchy of *Lancaſter*, or to his Deputy, within Six Calendar Months after making and executing their Award, to be him filed and recorded as Evidence amongſt the Records of His Majeſty's ſaid Duchy.

Salt Marſhes to be exempt from Tithes for Eleven Years.

LXVIII. Provided always, and it is hereby enacted and declared, That in Conſideration of the great Expence which will attend the Embankment of the ſaid Salt Marſhes, the ſame and every Part thereof ſhall for the Period of Eleven Years from the paſſing of this Act, but no longer, be freed and exempted from the Payment of any Tithes or Compoſitions, or other Payments in lieu of Tithes whatſoever, any Law, Statute, or Uſage to the contrary notwithſtanding,

Reſervation of Rights to future Frontages.

LXIX. Provided always, and be it further enacted, That nothing in this Act contained ſhall prejudice or in any reſpect defeat the Right or Title of any Perſon or Perſons to any Land or Frontages which may hereafter be left by the receding of the Sea oppoſite their reſpective Lands; but the ſame

shall and may be occupied and enjoyed in like Manner as they might have been in case this Act had not been made.

General Saving. LXX. Saving always to the King's most Excellent Majesty, His Heirs and Successors, as well in Right of His Crown as in Right of His Duchy of *Lancaster*, and to all and every other Person and Persons, Body or Bodies Politic, Corporate, or Collegiate, and his, her, and their Heirs, Successors, Executors, and Administrators, (except the several Persons to whom any Allotment or Allotments shall be made in pursuance of this Act for or in respect of such Rights and Interests as are hereby meant and intended to be barred, destroyed and extinguished, and all Persons respectively claiming under them, or in Remainder after them), all such Right, Title, and Interest, as they, every, or any of them could or ought to have had and enjoyed, in, to, or out of the Lands and Grounds hereby directed to be divided and inclosed, in case this Act had not been made.

Public Act. LXXI. And be it further enacted, That this Act shall be deemed and taken to be a Public Act, and shall be judicially taken Notice of as such by all Judges, Justices, and others, without the same being specially pleaded.

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